

## AMENDMENTS TO THE CLAIMS

This listing of claims will replace all prior versions, and listings, of claims in the application:

### In the claims

1. – 6. (Canceled).

7. (Currently amended): A tissue approximating device comprising:

first and second jaw members moveable toward one another, the moveability defining a plane of coaptation, ~~said first and second jaw members having inner surfaces facing toward one another;~~ and

a tissue engaging rod, said tissue engaging rod having a tissue engaging portion that can extend generally out of the plane of coaptation in a first position, said tissue engaging rod moveable a to a second tissue engaging position that transects the plane of coaptation thereby positioning tissue contacted by the tissue engaging rod between the first and second jaw members; and

wherein the tissue engaging rod is configured to extend independently of the first jaw member.

8. (Currently amended): The device of claim [[23]] 7 wherein said first jaw member includes a lumen extending longitudinally through at least a portion of the first jaw member.

9. - 10. (Canceled).

11. (Previously presented): The tissue approximating device of claim 7 wherein said tissue engaging rod is pivotally attached to said first and second jaw members.

12. - 23. (Canceled).

24. (Previously presented): A tissue approximating method comprising:

positioning tissue contacted by a tissue engaging rod between the first and second jaw members, wherein positioning tissue comprises moving a tissue engaging rod having a tissue engaging portion that can extend generally out of the plane of coaptation in a first position, said moving a tissue engaging rod comprising moving the tissue engaging rod to a second tissue engaging position that transects the plane of coaptation.

25. (Previously presented): The method of claim 24, wherein said first jaw member includes a lumen extending longitudinally through at least a portion of the first jaw member.

26. (Previously presented): The method of claim 24, further comprising pivotally moving said tissue engaging rod with respect to said first and second jaw members.

27. (New): A tissue approximating method comprising:  
moving a first jaw member toward a second jaw member in a plane of coaptation; and  
contacting tissue with a tissue engaging rod positioned between the first and second jaw members,

wherein contacting tissue comprises moving a tissue engaging rod having a tissue engaging portion that can extend generally out of the plane of coaptation in a first position.

28. (New): The device of Claim 7, wherein the tissue engaging rod is configured to extend independently of the second jaw member.

29. (New): The device of Claim 7, further comprising a first handle integral with the first jaw member, and further comprising a second handle integral with the second jaw member.

30. (New): The device of Claim 7, further comprising a hinge, wherein the first jaw and the second jaw members are rotatably attached to the hinge.

31. (New): The device of Claim 7, wherein the first and second jaw members have inner surfaces facing toward one another.

32. (New): The device of Claim 7, wherein the first jaw member comprises a distal portion and a proximal portion, and wherein the distal portion is detachable from the proximal portion.

33. (New): The device of Claim 32, wherein the distal portion forms a substantially non-zero angle with respect to the proximal portion

34. (New): The method of Claim 24, wherein the moving the tissue engaging rod comprises retracting the distal end of the tissue engaging rod from a position more distal to the distal end of the first jaw member to a position less distal of the distal end of the first jaw member.

35. (New): The method of Claim 24, further comprising detaching a distal portion of the first jaw member from a proximal portion of the first jaw member.

36. (New): The method of Claim 24, further comprising assembling a tissue approximation device, wherein the assembling comprises placing the first jaw member at a treatment site comprising the tissue, and placing the second jaw at the treatment site, then attaching the first jaw member to the second jaw member.

37. (New): The method of Claim 36, wherein attaching comprises attaching the first jaw member and the second jaw member to a hinge.

38. (New): The method of Claim 27, wherein the moving the tissue engaging rod comprises retracting the distal end of the tissue engaging rod from a position more distal to the distal end of the first jaw member to a position less distal of the distal end of the first jaw member.

39. (New): The method of Claim 27, further comprising detaching a distal portion of the first jaw member from a proximal portion of the first jaw member.

40. (New): The method of Claim 27, further comprising assembling a tissue approximation device, wherein the assembling comprises placing the first jaw member at a treatment site comprising the tissue, and placing the second jaw member at the treatment site, then attaching the first jaw member to the second jaw member, wherein attaching comprises attaching the first jaw member and the second jaw member to a hinge.